



STATE OF WASHINGTON
Department of Ecology
Lacey, Washington

REQUEST FOR QUOTE
RFQ No. ECY SPPR C0704

PROPOSAL TITLE: STANDBY EMERGENCY VESSEL TOWING SERVICES

PROPOSAL DUE DATE:

September 18, 2006 by 3:00 P.M. local time in Lacey, Washington.

TIME PERIOD FOR CONTRACT:

The time period of the contract awarded under this RFQ will be October 1, 2006 through October 31, 2006. Upon mutual agreement of the parties, the Department of Ecology may extend this contract for up to two (2) additional months at the same rate as proposed in BIDDERS response to this RFQ. Ecology also reserves the right to cancel the contract upon thirty (30) days notice. Any extensions shall be in writing and signed by both parties. Any cancellation notices shall also be in writing from Department of Ecology.

Upon notification of contract award, the successful BIDDER will begin providing standby emergency vessel towing services on October 1, 2006; unless otherwise agreed upon by mutual consent. Ecology will evaluate quotations and expects to notify the successful bidder on September 20, 2006.

BIDDER ELIGIBILITY: This procurement is open to those BIDDERS that satisfy the minimum qualifications stated herein and that are available for work in Washington State.

1. PURPOSE AND BACKGROUND

The Washington State Department of Ecology hereafter called "AGENCY", is initiating this Request for Quote (RFQ) to solicit proposals from firms interested in participating on a project to:

Provide Emergency Vessel Towing Services for vessels in an emergency, distressed situation, to prevent a pollution event for the period of October 1, 2006 through October 31, 2006. The AGENCY seeks to acquire these services that best meet the State's needs at the lowest cost and best value. The Department of Ecology may extend this contract for up to two (2) additional months at the same rate as proposed in BIDDERS response to this RFQ. These services are commonly known as the Neah Bay rescue tug. The primary purpose of this expedited contracting process is to fill a gap in rescue tug coverage that will occur during October 2006.

2. MINIMUM QUALIFICATIONS

The BIDDER must be licensed to do business in the state of Washington. The BIDDER must have three (3) years experience in Emergency Vessel Towing Services.

3. DEFINITIONS

Definitions for the purposes of this solicitation include:

AGENCY – The Department of Ecology is the agency of the state of Washington that is issuing this solicitation.

BIDDER – Individual or company submitting a proposal in order to attain a contract with the AGENCY.

CONTRACTOR– Individual or company whose proposal has been accepted by the AGENCY and is awarded a fully executed, written contract.

PROPOSAL – A formal offer submitted in response to this solicitation.

4. GENERAL INFORMATION FOR BIDDERS

RFP COORDINATOR

The RFP Coordinator is the sole point of contact in the AGENCY for this procurement. All communication between the BIDDER and the AGENCY upon receipt of this RFP shall be with the RFP Coordinator, as follows:

Name:	Becky Gilyard
Street Address	300 Desmond Drive SE
City, State, Zip Code	Lacey, WA 98503
Phone Number	(360) 407-7022
E-Mail Address	Rgil461@ecy.wa.gov

Any other communication will be considered unofficial and non-binding on the AGENCY. BIDDERS are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the BIDDER.

ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	September 12, 2006
Proposals due - 3:00 pm Lacey, Washington time	September 18, 2006
Evaluate proposals	September 19, 2006
Announce "Apparent Successful Contractor"	September 20, 2006
Hold debriefing conferences (if requested)	September 27-28, 2006
Begin contract work	October 1, 2006

The AGENCY reserves the right to revise the above schedule.

5. SUBMISSION OF PROPOSALS

Proposals must be submitted in hard copy. Proposals shall not be transmitted via facsimile. Submit hard copy response with two (2) copies. Both copies must have original signatures. The proposal must be received by the AGENCY no later than date and time stated in **Section 4** of this solicitation. The proposal is to be sent to the RFP Coordinator at the address noted in **Section 4** of this solicitation.

Late proposals will not be accepted and will be automatically disqualified from further consideration. The proposal must be complete and must stand on its own merits.

6. REVISIONS TO THE SOLICITATION

In the event it becomes necessary to revise any part of this solicitation, addenda will be published on the AGENCY web site, as follows: www.ecy.wa.gov select "Contracting" and appropriate solicitation.

The AGENCY also reserves the right to cancel or to reissue the solicitation in whole or in part, prior to execution of a contract.

7. ACCEPTANCE PERIOD

Proposals must provide 7 days for acceptance by AGENCY from the due date for receipt of proposals.

8. RESPONSIVENESS

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements. Failure to comply with any part of the solicitation may result in rejection of the proposal as non-responsive.

The AGENCY also reserves the right to waive minor administrative irregularities.

9. MOST FAVORABLE TERMS

The AGENCY reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms that the BIDDER can propose. There will be no best and final offer procedure. The AGENCY reserves the right to contact a BIDDER for clarification regarding the proposal during the evaluation process. The response may be incorporated into a contract resulting from this solicitation.

10. COSTS TO PROPOSE

The AGENCY will not be liable for any costs incurred by the BIDDER in preparation of a proposal submitted in response to this solicitation.

11. NO OBLIGATION TO CONTRACT

This solicitation does not obligate the state of Washington or the AGENCY to contract for services specified herein.

12. REJECTION OF PROPOSALS

The AGENCY reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this solicitation.

13. COMMITMENT OF FUNDS

The Director of the AGENCY or his/her delegate are the only individuals who may legally commit the AGENCY to the expenditures of funds for a contract resulting from this solicitation.

14. PERFORMANCE BOND AND INSURANCE COVERAGE

General Requirements: Contractor shall, at their own expense, obtain and keep in force insurance as follows until completion of the contract. Within fifteen (15) calendar days of receipt of notice of award, the Contractor shall furnish evidence in the form of a Certificate of Insurance satisfactory to the state that insurance, in the following kinds and minimum amounts has been secured. Failure to provide proof of insurance, as required, will result in contract cancellation.

Contractor shall include all subcontractors as insured's under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by State.

A. Specific Requirements:

1. **Employers Liability (Stop Gap):** The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The state will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this contract.
2. **Commercial General Liability Insurance:** The Contractor shall at all times during the term of this contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness, and death and property damage arising out of the Contractor's premises/operations, independent contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) conditions.

Contractor waives all rights against the State for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

- General Aggregate Limits (other than products- \$2,000,000 completed operations)
 - * Products-Completed Operations Aggregate \$2,000,000
 - * Personal and Advertising Injury Aggregate \$1,000,000
- Each Occurrence (applies to all of the above) \$1,000,000
- Fire Damage Limit (per occurrence) \$ 50,000
- Medical Expense Limit (any one person) \$ 5,000

3. Business Auto Policy (BAP): In the event that services delivered pursuant to this contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

4. Additional Provisions: Above insurance policies shall include the following provisions:

- a. Additional Insured: The State of Washington and all authorized contract users shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.

Notice of policy(ies) cancellation/non-renewal: For insurers subject to RCW 48.18 (Admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the State forty-five (45) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this contract.

For insurers subject to RCW 48.15 (Surplus Lines) a written notice shall be given to the State twenty (20) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this contract.

If cancellation on any policy is due to non-payment of premium, the State shall be given a written notice ten (10) calendar days prior to cancellation.

- b. Identification: Policy (ies) and Certificates of Insurance must reference the state's bid/contract number.
- c. Insurance Carrier Rating: The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by General Administration's Risk Manager, or the Risk Manager for the State of Washington, by submitting a copy of the contract and evidence of insurance before contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.
- d. Excess Coverage: The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

5. U.S. Long shore and Harbor Worker's Compensation Act Amendments of 1984. Contractor shall give all required notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the work. It is a mandatory requirement of this contract that the contractor will have in place U.S. Longshore and Harbor Workers' Insurance (U.S. L & H). Longshoreman's and Harbor Workers' Insurance is required for all on-site personnel. Exceptions to "on-site personnel" is limited exclusively to vessel crew members who are protected by Jones Act provisions (46 USC 688) and general maritime law, office clerical, secretarial, security or data processing employees who are not covered by a State Workers Compensation Act, 33 USCA & 902 (3).

The CONTRACTOR shall, at its own expense, obtain a performance guarantee for the amount of Thirty Six Thousand U. S. Dollars (\$36,000.00) within fifteen (15) calendar days after receipt of notice of award. Said guarantee shall be in the form of a(n):

1. Bond;
2. Escrow Agreement;
3. Irrevocable Letter of Credit;
4. Certified Check; or
5. Cashier's Check.

Bidder is to indicate the form of performance guarantee they intent to provide.

Note: Certified or cashier's checks are held by the state for the contract term and do not yield interest payable to the contractor.

The CONTRACTOR shall, at its own expense, obtain and keep in force insurance coverage that shall be maintained in full force and effect during the term of the contract. The CONTRACTOR shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to the Agency within fifteen (15) days of the contract effective date.

Commercial General Liability (CGL) Insurance: shall have a limit of not less than \$1,000,000 per each occurrence.

Business Auto Policy: As applicable, the CONTRACTOR shall maintain business auto liability with a limit not less than \$1,000,000 per accident.

Cancellation: The AGENCY shall be provided a 45 day advance written notice before cancellation or non-renewal of any insurance.

Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

15. NOTIFICATION TO BIDDERS

Firms whose proposals have not been selected for further negotiation or award will be notified via e-mail.

16. DEBRIEFING OF UNSUCCESSFUL BIDDERS

Upon request, a debriefing conference will be scheduled with an unsuccessful BIDDER. The request for a debriefing conference must be received by the RFP Coordinator within two (2) business days after the notification of unsuccessful BIDDER e-mailed to the BIDDER. The debriefing must be held within two (2) business days of the request.

Discussion will be limited to a critique of the requesting BIDDERS proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one (1) hour.

17. PROTEST PROCEDURE

This procedure is available to BIDDERS who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the BIDDER is allowed two (2) business days to file a protest of the acquisition with the RFP Coordinator.

BIDDERS protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to BIDDERS under this procurement.

All protests must be in writing and signed by the protesting party or an authorized Agent. The protest must state the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included. All protests shall be addressed to the RFP Coordinator.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of the evaluator.
- Errors in computing the score.
- The AGENCY failed to follow procedures establish in the solicitation.

Protests not based on procedural matters will not be considered.

Upon receipt of a protest, a protest review will be held by the AGENCY. The AGENCY director or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within three (3) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another BIDDER that submitted a proposal, such BIDDER will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the AGENCY's action; or
- Find only technical or harmless errors in the AGENCY's acquisition process and determine the AGENCY to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide the AGENCY options which may include:
 - Correct the errors and re-evaluate all proposals, and/or
 - Reissue the solicitation document and begin a new process, or
 - Make other findings and determine other courses of action as appropriate.

If the AGENCY determines that the protest is without merit, the AGENCY will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

EXHIBIT A CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s).

I/we declare that all answers and statements made in the proposal are true and correct.

The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.

The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the AGENCY without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.

In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)

I/we understand that the AGENCY will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the AGENCY, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.

Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.

I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.

No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

I/we grant the AGENCY the right to contact references and others, who may have pertinent information regarding the Proposer's prior experience and ability to perform the services contemplated in this procurement.

On behalf of the firm submitting this proposal, my name below attests to the accuracy of the above statements.

Signature of Proposer

Title

Date

EXHIBIT B BID OFFER AND CONTRACT ACCEPTANCE SIGNATURE

Bidder further offers to furnish materials, equipment or services in compliance with all terms, conditions, and specifications herein including all amendments. Submitting this document with an authorized signature constitutes complete understanding and compliance with the terms and conditions and certifies that all-necessary facilities or personnel are available and established at the time of bid submittal.

_____ (Company Name)			_____ (Typed or Printed Name)	
_____ (Address)			_____ (Title)	
_____ (City)	_____ (State)	_____ (Zip)	_____ (Phone No.)	
_____ (Federal Tax Identification Number)			_____ (Bidder's Signature)	
_____ Email			_____ (Date)	

CONTRACT AWARD
(For State of Washington Use Only)

A contract is hereby awarded between the above company and the State of Washington, Department of Ecology.

_____ (Printed name)	_____ (Signature)	_____ (Date)
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EXHIBIT C SPECIFICATIONS

ITEM NO.	SPECIFICATIONS	Meets Specification	Provide Written Documentation that Supports Exception to Specification
1.	The tug must be U.S.-flag to reduce potential Jones Act conflicts.		
2.	All actual rescue operations will be coordinated with the U.S. Coast Guard.		
3.	Missions The primary mission of the dedicated rescue tug is to provide timely emergency towing service for distressed vessels to prevent a pollution event. The response area encompasses coastal waters (generally no more than 50 miles offshore) in the Western Strait of Juan de Fuca between Buoy JA and Port Angeles, the western approaches to the Strait of Juan de Fuca, and the Pacific Coast of Washington State.		
4.	The rescue tug will be operated in a “station house mode” from the port of Neah Bay, Washington. It is expected to be at sea approximately 100 hours per month (patrols, training, and at-sea standby service for potentially high risk vessels) and on a “ready alert” status for the balance of the time. The crew is on 24-hour call, and must live aboard or nearby the dispatch point.		
5.	The tug must be able to reach Buoy JA within two hours at any given time and be able to respond to all vessels within the response area. This provision may be waived for the purposes of refueling, maintenance, or emergency response at the sole discretion of Ecology.		
6.	The rescue tug must be able to gain and maintain control of a drifting or disabled vessel up to 180,000 deadweight tons under severe duty conditions.		
7.	Severe Duty equates to winds of 30 – 50 knots, with a maximum sustained wind speed of 40 knots, and significant wave height of 12 to 18 feet.		
8.	The dedicated rescue tug may serve other purposes as long as the primary mission is not jeopardized. These missions include: <ul style="list-style-type: none"> Acting as a vessel of opportunity in an oil spill response effort; Marine fire fighting; Offering early reconnaissance and assistance for a salvage operation; and Providing intervention support for; the U.S./Canada Cooperative Vessel Traffic Service (CVTS); and Providing escort of high-risk vessels. 		
9.	Basic Elements of the Rescue Tug The dedicated rescue tug stationed at Neah Bay, near the entrance to the Strait of Juan de Fuca, must include the following elements: A tug of sufficient power and maneuverability to timely respond to large vessels; crew trained and experienced in towing and preliminary oil spill response techniques; and a support structure for the tug and crew that allows for safe, effective, and timely response.		
10.	Rescue Tug Performance Standards The Rescue Tug must possess a current load line certificate issued by a member of the International Association of Classification Societies (IACS). The tug also must meet the requirements necessary to operate in		

	U.S. and Canadian waters. The rescue tug should be capable of the following:		
11.	<ul style="list-style-type: none"> ▪ Speed. The rescue tug must be capable of sustaining a speed of at least 12 knots in Sea State 5 (winds of 20 to 25 knots, significant wave height of 8 feet). 		
12.	<ul style="list-style-type: none"> ▪ Sea keeping. The rescue tug must be able to safely maneuver and operate in the severe duty conditions. 		
13.	<ul style="list-style-type: none"> ▪ Maneuverability. The rescue tug must have the ability to maintain a bow heading into a 40-knot wind plus or minus 15 degrees with zero speed of advance in Sea State 5. 		
14.	<ul style="list-style-type: none"> ▪ Station-keeping. The rescue tug should be able to maintain position within 100 feet of another vessel for at least fifteen minutes in a 40-knot wind and Sea State 5. 		
15.	<ul style="list-style-type: none"> ▪ Stability. The rescue tug must meet the stability criteria established by the U.S. Coast Guard in 46 CFR 173.095 and 174.145. 		
16.	<ul style="list-style-type: none"> ▪ Bollard Pull. The vessel must be capable of a bollard pull of <u>at least 70 short tons</u>. Bollard pull may be estimated or certified. The state reserves the right to require certification prior to contract award. 		
17.	<ul style="list-style-type: none"> ▪ Endurance. The vessel must be capable of at least four days of sustained at-sea operations in severe duty conditions. 		
18.	<ul style="list-style-type: none"> ▪ Draft: The vessel when loaded with sufficient fuel and stores to meet the Endurance standard above, must carry a draft that allows safe navigation in and out of Neah Bay at mean lower low water (MLLW). The Under keel Clearance Standard of Care adopted by the Puget Sound Harbor Safety Committee states that minimum under keel clearance for commercial vessels shall be three feet. 		
19.	<p>Equipment: To be able to perform rescues in severe duty conditions, the rescue tug must meet the following standards:</p> <ul style="list-style-type: none"> ▪ Towing. A double drum towing winch, or alternative system providing equal performance, tow pin/hold-down system, synthetic tow lines on a winch for towing small craft, and line handling equipment. ▪ Orville Hook. The rescue tug must be equipped with an Orville Hook device for recovery of towing bridles attached to drifting tank barges ▪ Work spaces. The rescue tug should have sufficient work and deck space for the crew to perform required operations safely and efficiently, and have hold or storage space that is readily accessible for stores, emergency supplies, and gear. ▪ Navigation and communications. The rescue tug must be equipped with complete and current navigation and communication technology, including gyro and magnetic compasses two radars, Global Positioning System (GPS), and radio and telephone communications. ▪ Line-Throwing Gun. The rescue tug must be equipped with a line-throwing gun capable of passing a suitable messenger line to a disabled vessel from a distance of at least 100 feet in 40-knot winds. 		
20.	<p>Rescue Tug Crew: Crew size, including master, mate (s) and deckhands, must be sufficient to perform the required services and meet the safe manning requirements of the U.S. Coast Guard. The department's expectation is that safe performance of required operational duties under severe conditions and for extended periods will require crew size to exceed minimum standards. The crew must be trained in emergency towing, fire fighting, pollution response, and personnel rescue operations. Navigation watch officers/operators must be familiar with the rescue tug operating area. The bidder certifies that all crew members meet these standards. Each active crew member must be available 24 hours a day while on duty.</p>		

	The crew must be available for immediate dispatch during the contract period.		
21.	Support Structure: The rescue tug will require a support structure in the form of marine fuel facilities, moorage, maintenance/repair facilities, living accommodations for crew members, other essential services, and at least one suitable replacement vessel. Replacement vessel must be available within 24 hours.		
22.	The operator of the rescue tug will be required to submit weekly operations reports to the Washington Department of Ecology describing underway hours and activities; results of patrols, rescue missions and training; and fuel consumption. Weekly reports will then be consolidated monthly and submitted with monthly invoices to Ecology.		
23.	Relationship to Salvage and OIL SPILL RESPONSE: The dedicated rescue tug is not a salvage or oil spill response vessel and should not be relied upon for salvage services or oil spill response. However, the rescue tug should be regarded as a critical partner of the salvor and responder. As potentially the first vessel on scene at a collision or other disabling event in the Strait or near the coast, the rescue tug should be capable of providing limited salvage services in the nature of fire fighting, early reconnaissance, and emergency assistance and limited oil spill response while other vessels are enroute. To be able to serve as a vessel of opportunity for initial salvage and/or spill response, the rescue tug must carry the following equipment: <ul style="list-style-type: none"> • Damage Control Patching Kit • Dewatering Pump • Air Monitoring Equipment for Ambient Benzene, Hydrogen Sulfide, and Explosive Atmosphere • Oil Sample Collection Kit (to be provided by the Washington Department of Ecology) • Digital camera (to be provided by Washington State Department of Ecology) • Tracking Transponder (to be provided by Washington State Department of Ecology, if not currently installed) 		

EXHIBIT D PRICE SHEETS

<u>Element</u>	<u>Bid Price per Hour</u>	<u>Extension (per Month)</u>
Vessel, Crew, & Support Underway*	\$_____ X 100 Hrs. **	\$_____
Vessel, Crew, & Support In-Port	\$_____ X 620 Hrs. **	\$_____
		\$_____TOTAL

Fuel costs will be reimbursed at cost to contractor described in Section 1.3 B.

*The vessel is expected to be underway on patrol/training missions a maximum of 100 hours per month. . Services and fuel costs for rescue missions will be paid for by the disabled vessel at rates established by industry practice and will not be charged to the contract. The operation of the state contract shall be suspended during the time the vessel is engaged in rescue operations, from the time the vessel leaves its standby location until the time it returns to such location.

**Based on a 30 day month.

EXHIBIT E CONTRACT TERMS AND CONDITIONS

Definitions

As used throughout the contract terms and conditions, the following terms shall have the meaning set forth below:

"AGENCY" shall mean the Department of Ecology of the state of Washington,

"AGENT" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.

"CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.

"SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and

"SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

Advance Payments Prohibited

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

Amendments

This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

Americans with Disabilities Act (ADA) of 1990, Public Law 101-336, Also Referred to as the "ADA" 28 CFR Part 35

The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

Apprenticeship Program

The Makah Indian reservation, on the northwestern tip of the Olympic Peninsula, is one of the areas most vulnerable to a pollution incident occurring in the vicinity of Buoy JA. As such, the Makah's have a vested interest in the safe and effective operation of the rescue tug.

Bidders are encouraged to use the Makah apprenticeship program if possible in the crew of the rescue tug. The knowledge of cultural and natural resources in the area and the investment of tribal members in the preservation of the area could be invaluable in responding to incidents.

Assignment

Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of the AGENCY.

Attorneys' Fees

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

Covenant Against Contingent Fees

The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business.

The AGENCY shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

Disallowed Costs

The CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with AGENT.

1. The request for a dispute hearing must:
 - Be in writing;
 - State the disputed issue(s);
 - State the relative positions of the parties;
 - State the CONTRACTOR'S name, address, and contract number; and
 - Be mailed to the AGENT and the other party's (respondent's) contract manager within three (3) business days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within five (5) business days.
3. The AGENT shall review the written statements and reply in writing to both parties within ten (10) business days. The AGENT may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

Duplicate Payment

The AGENCY shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the state of Washington or any other party under any other contract or agreement, for the same services or expenses.

Funding

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten (10) day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions.

Governing Law

This contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

Indemnification

To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract.

"Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting there from. CONTRACTOR'S obligations to indemnify, defend, and hold harmless includes any claim by CONTRACTORS' agents, employees, representatives, or any subcontractor or its employees.

CONTRACTOR expressly agrees to indemnify, defend and hold harmless the state for any claim arising out of or incident to CONTRACTOR'S or any subcontractor's performance or failure to perform the contract. CONTRACTOR'S obligation to indemnify, defend, and hold harmless the state shall not be eliminated or reduced by any actual or alleged concurrent negligence of state or its agents, agencies, employees and officials.

CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officials, agents or employees.

Independent Capacity of the CONTRACTOR

The parties intend that an independent CONTRACTOR relationship will be created by this contract. The CONTRACTOR and his or her employees or agents performing under this contract are not employees or agents of the AGENCY. The CONTRACTOR will not hold himself/herself out as or claim to be an officer or employee of the AGENCY or of the state of Washington by reason hereof, nor

will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

Industrial Insurance Coverage

The CONTRACTOR shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the CONTRACTOR fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, AGENCY may collect from the CONTRACTOR the full amount payable to the Industrial Insurance accident fund. The AGENCY may deduct the amount owed by the CONTRACTOR to the accident fund from the amount payable to the CONTRACTOR by the AGENCY under this contract, and transmit the deducted amount to the Washington State Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's right to collect from the CONTRACTOR.

Licensing, Accreditation and Registration

The CONTRACTOR shall comply with all applicable local, state and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

Limitation of Authority

Only the AGENT or AGENT'S delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the AGENT.

Non-compliance with Non-discrimination Laws

In the event of the CONTRACTOR'S non-compliance or refusal to comply with any non-discrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with the AGENCY. The CONTRACTOR shall, however, be given a reasonable time in which to cure this non-compliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

Non-discrimination

During the performance of this contract, the CONTRACTOR shall comply with all federal and state non-discrimination laws, regulations and policies.

OSHA and WISHA Requirements

Contractor agrees to comply with applicable conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued there under and certifies that all items furnished and purchased under this order will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless purchaser from all damages assessed against purchaser as a result of Contractor's failure to comply with the acts and standards there under and for the failure of the items furnished under this order to so comply.

Payment

Contractor will invoice monthly for services provided. The invoice must provide the following information:

Contract Number

Dates of Service

Each staff person to be listed with hourly rate and hours

Hours reported must state "underway" or "in-port"

Fuel Costs (gallons/cost per gallon and receipt)

Invoice Total

The State will reimburse contractor for fuel. Receipts for fuel reimbursement will accompany the monthly invoice. The State reserves the right to evaluate price reasonableness for all invoices for fuel pricing prior to payment.

The State will pay invoices within 30 days of properly completed invoice, as outlined above.

Publicity

The CONTRACTOR agrees to submit to the AGENCY all advertising and publicity matters relating to this contract wherein the AGENCY'S name is mentioned or language used from which the connection of the AGENCY'S name may, in the AGENCY'S judgment, be inferred or implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of the AGENCY.

Records Maintenance

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

CONTRACTOR shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

Registration with Department of Revenue

The CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

Salaries and Wages – Prevailing Wage

The Washington State prevailing wage laws are applicable to the contract resulting from this solicitation. No payment shall be made until the contractor has submitted an "intent to pay prevailing wages" form that has been approved by the Department of Labor and Industries. Final payment shall not be made until the contractor submits an affidavit form certified by the Department of Labor and Industries that prevailing wages have been paid. The prevailing wages for categories of work provided under this contract are attached as Exhibit F.

Severability

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

Subcontracting

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the AGENCY for any breach in the performance of the CONTRACTOR'S duties. This clause does not include contracts of employment between the CONTRACTOR and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the AGENCY or as provided by law.

Taxes

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

Termination for Cause

In the event the AGENCY determines the CONTRACTOR has failed to comply with the conditions of this contract in a timely manner, the AGENCY has the right to suspend or terminate this contract. Before suspending or terminating the contract, the AGENCY shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

The AGENCY reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by the AGENCY to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the AGENCY provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

Termination for Convenience

Except as otherwise provided in this contract, the AGENCY may, by ten (10) calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the AGENCY shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

Waiver

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of the AGENCY.

EXHIBIT F - PREVAILING WAGES

State of Washington
DEPARTMENT OF LABOR AND INDUSTRIES
Prevailing Wage Section - Telephone (360) 902-5335
PO Box 44540, Olympia, WA 98504-4540

Washington State Prevailing Wage Rates for Public Works Contracts

The PREVAILING WAGES listed here include both the hourly wage rate and the hourly rate of fringe benefits. On public works projects, workers' wage and benefit rates must add to not less than this total. A brief description of overtime calculation requirements is provided by clicking on the benefit code.

Rescue Tug and Service Tug Operations (Inland Boatmen) **Effective 08/31/06**

Hourly Wage and Benefit Amounts

<u>Classification:</u>	<u>Total of Wages and Benefits</u>
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CAPTAIN	\$37.34
COOK	\$31.23
DECKHAND	\$30.90
ENGINEER/DECKHAND	\$33.65
MATE, LAUNCH OPERATOR	\$35.32

State of Washington
Department of Labor and Industries
Prevailing Wage Section - Telephone (360) 902-5335
PO Box 44540, Olympia, WA 98504-4540
Washington State Prevailing Wage

The PREVAILING WAGES listed here include both the hourly wage rate and the hourly rate of fringe benefits. On public works projects, workers' wage and benefit rates must add to not less than this total. A brief description of overtime calculation requirements is provided on the Benefit Code Key.

Holiday Pay

All hours worked on holidays shall be paid at 2.5 times the regular hourly wage rate. Holidays (9) are: New Years Day, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day.